

**Before the
New Hampshire Real Estate Commission
Concord, New Hampshire 03301**

In The Matter Of: **Docket No.: 2011-034**
New Hampshire Real Estate Commission v. Christopher M. Evans
License No.: 031986
(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Christopher M. Evans ("Respondent" or "Mr. Evans") in Docket Number 2011-034.

Background Information:

On December 1, 2011, Respondent filed his real estate broker license renewal application which was due to expire on December 1, 2011. In support of the renewal application, Respondent changed the credit hours on his Education Credit Affidavit from 1 credit hour to 3 credit hours for Course #E-1456, titled, "NHREC Updates" that he attended on March 9, 2011. On December 16, 2011, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2011-034 against Respondent. Subsequent to an investigation, on May 10, 2012, the Commission issued a Notice of Hearing for a hearing scheduled for June 19, 2012.

On Tuesday, June 19, 2012, at 9:43 a.m., the Commission commenced the adjudicatory/disciplinary hearing in the above captioned matter. Commission members present¹ were:

David C. Dunn, Commissioner, Presiding Officer
Daniel S. Jones, Commissioner
William E. Barry, Commissioner
Paul A. Lipnick, Commissioner

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Mr. Evans was present and represented by Attorney Robert E. Murphy.

The following exhibits were introduced into evidence and accepted into the record:

¹ These same Commission members also deliberated and voted on this Final Decision and Order.

- Complainant Investigator Flanagan's Exhibits:
Exhibit #1 - Complaint File 2011-034: pages 1-35.
Exhibit #2 – Statement from Linda Locke of the Concord Board of Realtors.
Exhibit #3 – Statement from Kathy Roosa of Kathy Roosa School of Real Estate.
- The Respondent's exhibits: none were introduced.

The following witnesses were present and testified at the hearing:

- Sheila Haines, Administrative Assistant of the NH Real Estate Commission
- Fran West, Education Program Assistant of the NH Real Estate Commission

Findings of Fact:

In light of the testimony and exhibits, the Commission finds the following facts:

LICENSURE FACTS:

1. Respondent has held a license as a real estate salesperson from the Commission since December 12, 1980 until he received his real estate broker's license on December 1, 1983. At the time of the allegations, Respondent was licensed as a real estate broker, license #031986, in active status with a license period of December 1, 2009 – December 1, 2011.

2. At 4:05 p.m. on December 1, 2011, the date the Respondent's broker license was due to expire, Respondent hand delivered to the Commission office his renewal application. The renewal application requires continuing education credit affidavits for 12 credit hours to renew a broker license in active status. The 12 credit hours must include one 3 hour core continuing education course and 9 hours of continuing education elective courses accredited with the Commission. (Ex. 1, pg. 16)

CONTINUING EDUCATION AFFIDAVIT FACTS:

3. The Commission Administrative Assistant Sheila Haines reviewed Respondent's license application and continuing education to ensure that Respondent had submitted the required

information on his application and appropriate hours of continuing education. Ms. Haines noticed that Respondent had submitted two 3 hour core continuing education affidavits, and informed Respondent that only one 3 hour core continuing education course could be accepted toward the 12 hour continuing education requirement and that his license would be renewed in inactive status. (Ex. 1, pg 16).

4. Respondent informed Ms. Haines that he had completed an on-line 3 hour continuing education course on the morning of December 1, 2011 and would fax the affidavit to the Commission (Ex. 1, pg. 16).

5. When Respondent's continuing education credit hours were entered into the Commission's database, Course #E-1456 was rejected for incorrect hours submitted. The course was in the database as accredited for 1 hour instead of 3 hours of continuing education as indicated on the education credit affidavit. (Ex. 1, pg. 16).

6. The Commission accredited Course #E-1456, titled "NHREC Updates", and the instructor was the NH Real Estate Commission. This course was presented by Executive Director Beth Edes and Investigator Ann Flanagan of the Commission. The course was accredited by the Commission for 1 credit hour of continuing education. The sponsor of the course was the Concord Board of Realtors, and the school official who signed the continuing education affidavit was Linda Locke, CEO of the Concord Board of Realtors (Ex. 1, pg. 22 and Ex. 2).

7. The continuing education affidavit for Course #E-1456 submitted by the Respondent was provided to Fran West, the Commission's Education Program Assistant for review, and upon review it was discovered that the class was only accredited for 1 hour of continuing education credit, and that the education affidavit credit hours had been changed from 1 hour to 3 hours. (Ex. 1, pg. 16).

8. Ms. West contacted Linda Locke, the CEO of Concord Board of Realtors on December 6, 2011, to verify that Respondent was in attendance at the course, and that 1 credit hour of continuing education was provided to Respondent. Ms. Locke verified that Respondent was in

attendance and received 1 credit hour of continuing education for the course. (Ex. 1, pg. 17 and Ex. 2).

9. Ms. Haines contacted the Respondent on December 6, 2011 to inform him that Course #E-1456 was only accredited for 1 hour of continuing education credit and that he needed to submit 2 additional hours of continuing education credit to activate his license in active status (Ex. 1, pg. 14).

10. After Ms. Haines notified Respondent that he needed an additional 2 hours of continuing education credit he submitted another affidavit with 3 hours on December 6, 2011 which he received from the Kathy Roosa School of Real Estate, provided on June 14, 2011 for Course #E-245. (Ex. 1, pg. 25)

11. Ms. West contacted Kathy Roosa of Kathy Roosa School of Real Estate to confirm that Respondent did in fact attend the course on June 14, 2011.

12. Respondent admitted to changing the affidavit for Course #E-1456 in his reply to the complaint (Ex. 1, pg. 31) and testified at the hearing that he did change the 1 hour to 3 hours on the affidavit.

13. Respondent testified that at the time of his renewal he thought all electives were 3 credit hours.

14. Respondent stated in his reply to the complaint that he was missing continuing education affidavits and contacted Kathy Roosa of Kathy Roosa School of Real Estate to see if she could look up attendees of her completed courses by name to see what courses he had completed with her. Ms. Roosa stated she did not have a database organized by the names of attendees. During his conversation with Ms. Roosa, Respondent asked her if there were continuing education courses that were accredited for 1 credit hour, and Ms. Roosa told Respondent that he would have to contact the instructor.

15. Respondent contacted the Commission to see if the Commission had a database of courses he had completed to locate any missing affidavits, but did not ask the Commission staff if Course #E-1456 was accredited for 1 hour or 3 hours (Ex. 1, pg. 32).

16. Respondent testified at the hearing that he made several attempts to find out the correct credit hours that Course #E-1456 was accredited for, by looking on the Commission website for the school official's name, and believes that he attempted to contact the Commission office on 2 occasions.

17. When asked by Investigator Flanagan during the hearing why he did not ask Ms. Haines about the education hours for Course #E-1456 at the time he was attempting to renew his license, he stated that it was 4:10 p.m. and because of the late hour, we did not discuss whether this course was a 1 hour or 3 hour credit course.

18. Respondent's assertion that he was unable to get answers about the course was not credible because the Real Estate Commission was listed as the instructor and Respondent could have easily verified with the Commission that the course was accredited for only 1 credit hour before he altered it to 3 credit hours and submitted it in support of his renewal application.

Relevant Law:

RSA 331-A:2, XV. – "Unprofessional conduct" means any action by a licensee which is unlawful, dishonorable, unethical, or immoral.

331-A:26, Prohibited Conduct. – The following acts, conduct or practices are prohibited, and any licensee found guilty after a hearing shall be subject to disciplinary action as provided in RSA 331-A:28:

I. – Obtaining or attempting to obtain a license by means of fraud, misrepresentation or concealment.

XXIX. – Unprofessional conduct defined in RSA 331-A:2, XV.

Rulings of Law:

The Commission makes the following findings by a preponderance of the evidence:

1. The Respondent attempted to obtain a license by means of misrepresentation by altering an Education Credit Affidavit for Course #E-1456, titled "NHREC Updates", taught by the Executive Director and the Investigator of the NH Real Estate Commission for 1 credit hour, and submitting the altered affidavit as 3 credit hours with his renewal application in violation of RSA 331-A:26, I. (Notice of Hearing, paragraph 5A)

2. The Respondent committed unprofessional conduct by acting dishonorably and unethically when he altered his Continuing Education Course Affidavit by increasing the credit hours from 1 credit hour to 3 credit hours in violation of RSA 331-A:26, XXIX. (Notice of Hearing, paragraph 5B).

Disciplinary Action:

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that the Respondent pay a disciplinary fine in the amount of five-hundred dollars (\$500) for each violation for a total amount of one-thousand dollars (\$1,000) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within ninety (90) days of the effective date of this Order; and Respondent shall show proof of full attendance at a New Hampshire Real Estate Commission accredited 3-hour continuing education course about Ethics by submitting to the Commission an affidavit of the completed course (this continuing education course is to be completed by classroom delivery method only and is not to be counted towards Respondent's continuing education requirements for renewal of license) within ninety (90) days of the effective date of this Order. Failure to comply with this disciplinary Order will result in the suspension of Respondent's real estate license until the fine is paid and the course is completed.

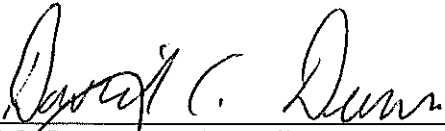
IT IS **FURTHER ORDERED** that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

IT IS **FURTHER ORDERED** that this Final Decision and Order shall become a permanent part of the Respondent's disciplinary file, which is maintained by the Commission as a public document.

IT IS **FURTHER ORDERED** that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at

the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

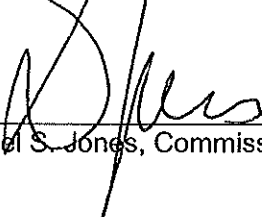
IT IS FURTHER **ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.



David C. Dunn, Presiding Officer

8/21/12

Date



Daniel S. Jones, Commissioner

8/21/12

Date

William E. Barry

William E. Barry, Commissioner

8/21/2012

Date



Paul A. Lipnick, Commissioner

8.21.12

Date

*\ James R. Therrien, Commission member, (case evaluator) recused.